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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/973,610  
Filing Date: October 09, 2001  
Appellant(s): BEYERS ET AL.

\_\_\_\_\_  
Karen G. Hazzah  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/22/2008 appealing from the Office action mailed 06/23/2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 2002/0004839	Wine et al	01/2002
US 6,698,020	Zigmond et al	02/2004

US 7,143,428	Bruck et al	11/2006
US 6,108,706	Birdwell et al	08/2000
US 2002/0010928	Sahota	01/2002
US 2001/0032333	Flickinger	10/2001

**"Logic." Microsoft Computer Dictionary. 4th ed. 1999.**

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1, 4-9, 17-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wine et al (US 2002/0004839 and hereafter referred to as "Wine") in view of Zigmond et al (US 6,698,020 and hereafter referred to as "Zigmond") and Bruck et al (US 7,143,428 and hereafter referred to as "Bruck").

Regarding Claim 1, Wine discloses a method in a subscriber television system (STS) (Figure 5, 190), the method comprising the steps of: displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); providing a plurality of media content instances to be displayed to a subscriber (Figure 5, Page 4, paragraph 0035, 0041); providing at least one trigger synchronized with a first media content instance of the plurality of media content instances (Page 5, paragraphs 0050, 0051); the at least one trigger comprising at least one unique identifier or synchronized timing information (Page 5, paragraph 0049), enabling at least one content restriction responsive to a reception of the at least one trigger or VBI token

(Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051), the content restriction enabling display of all the content except for particular media content of the plurality of media content instances, the particular media content instances associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). Wine does not explicitly disclose that the trigger is exclusive; receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display.

In analogous art, Zigmond discloses the trigger is exclusive, enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30),

displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the

invention.

Regarding Claim 17, Wine discloses a method in a STS (Figure 5, 190), the method comprising the steps of: inserting, within an available insertion area in at least one transport stream (Page 4, paragraph 0042, Page 5, paragraph 0050), at least one trigger having at least one content restriction (Page 5, paragraphs 0043, 0046); the content restriction enabling display of all the content except for particular media content, the particular content associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051), and distributing the at least one transport stream with the at least one trigger to a plurality of client devices (Page 3, paragraph 0028). Wine discloses displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). Wine does not explicitly disclose that the trigger is exclusive, receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive,

enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108,



118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claim 21, Wine discloses a method in a STS (Figure 5, 190), the method comprising the steps of: providing a plurality of media content instances to be displayed to a subscriber (Page 3, paragraph 0028), a first media content instance of the plurality of media content instances being a video stream and a second media content instance of the plurality of media content instances being a particular advertisement (Pages 4-5, paragraphs 0042, 0049- 0051); providing at least one trigger synchronized with a priority event or content being displayed in the video stream (Page 5, paragraphs 0047, 0050, 0051); enabling display of all media content instances while excepting the particular advertisement or content which is not appropriate from being displayed simultaneously with the priority event in the video stream, the particular content or advertisement associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses displaying a first video stream or priority event to a subscriber in a video area of a screen display

(Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the priority event or the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). Wine does not explicitly disclose that the trigger is exclusive, receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive, enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

to modify Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claims 24 and 34, Wine discloses a system in a STS (Figure 5, 208) and a system in a STS headend device (Figure 5, 208), the system comprising: a web server inserts VBI tokens into the audio visual stream using a retrieved control file to

form an encoded multimedia stream that can transmit the stream to a web server (Page 5, paragraph 0050, 0051) which necessarily includes that the web server (Figure 5, 208) contain a processor as the server processes the control file stored in some form of memory (Page 4, paragraph 0034) to generate the encoded multimedia stream. Wine discloses the server providing at least one trigger synchronized with a first media content instance of the plurality of media content instances (Page 5, paragraphs 0050, 0051); the at least one trigger comprising at least one unique identifier or synchronized timing information (Page 5, paragraph 0049), enabling at least one content restriction responsive to a reception of the at least one trigger or VBI token (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051), the at least one content restriction enabling display of all the content except for particular media content of the plurality of media content instances, the particular media content instances associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). The Microsoft Computer Dictionary (4<sup>th</sup> edition) defines logic – in programming, the

assertions, assumptions and operations that define what a given program does.

Defining the logic of a program is often the first step in developing the program's source code. Therefore, the web server must also contain logic for executing the above methods. Wine does not explicitly disclose that the trigger is exclusive, receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive, enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the

combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claim 31, Wine teaches a system in a STS client device or personal computer (Figure 5, 210, Page 4, paragraph 0040). Wine comprises that VBI tokens and synchronization timing information are exported into a control file and the control file contains data needed by servlets and applets to control the browsers 210 executed by personal computers (Page 5, paragraphs 0048, Page 7, paragraph 0047). Therefore, the control file contains logic for controlling the browser and the personal computer STS

client device contains a processor that executes the logic of the control file, where it is the control file is stored in storage or some form of memory when the client receives the control file (Page 2, paragraphs 0015, 0016, Page 7, paragraph 0087). Wine also teaches that the STS client device comprises logic configured to provide a plurality of media content instance to be displayed to a subscriber as the web browser displays the audio-visual stream together with the accompanying content to the viewer. Wine teaches the server comprises logic providing at least one trigger synchronized with a first media content instance of the plurality of media content instances (Page 5, paragraphs 0050, 0051); the at least one trigger comprising at least one unique identifier or synchronized timing information (Page 5, paragraph 0049), enabling at least one content restriction responsive to a reception of the at least one trigger or VBI token (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051), the content restriction enabling display of all the content except for particular media content instances of the plurality of media content instances, the particular media content instances associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs

0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). Wine teaches that the logic can be sent to the client for execution (Page 7, paragraph 0087). The Microsoft Computer Dictionary (4<sup>th</sup> edition) defines logic – in programming, the assertions, assumptions and operations that define what a given program does. Defining the logic of a program is often the first step in developing the program's source code. Therefore, the client can process the logic that the web server can perform as discussed in claims 1 and 24. Wine does not explicitly disclose that the trigger is exclusive, receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive, enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify



Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claim 37, Wine discloses a system in a STS headend (Figure 5, 208), the system comprising: a web server inserts VBI tokens into the audio visual stream using a retrieved control file to form an encoded multimedia stream that can transmit the

stream to a web server (Page 5, paragraph 0050, 0051) which necessarily includes that the web server (Figure 5, 208) contain a processor as the server processes the control file stored in some form of memory or database (Page 4, paragraph 0034) to generate the encoded multimedia stream. Wine discloses the server providing at least one trigger synchronized with a first media content instance of the plurality of media content instances (Page 5, paragraphs 0050, 0051). See rejection of Claims 24 and 34. Wine teaches the logic configured to allow the STS headend to receive and distribute at least one transport stream or multimedia stream or audiovisual stream to a plurality of client devices (Page 3, paragraph 0028). Wine teaches that the STS headend or web server is configured to receive audio-visual steam or transport stream from data servlet (Figure 5, 206) (Page 5, paragraph 0050) and that the headend communicates with client devices or personal computers executing web applications (Page 4, paragraph 0040, Figure 5, 210) and transmits the encoded transport streams to the web browsers (Figure 5, 210). Wine discloses that headend comprises an administrative content control module or unit that encodes VBI tokens into an audiovisual stream (Page 5, paragraphs 0048-0051). Wine also teaches that the web server enables at least one trigger to be synchronized with an available insertion area in the transport area in the transport stream (Page 5, paragraph 0050), the at least one trigger or VBI token comprising at least one content restriction (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051), the content restriction enabling display of all media content instances except for particular media content of the plurality of media content instances, the particular media content instances associated with the at least

one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). The Microsoft Computer Dictionary (4<sup>th</sup> edition) defines logic – in programming, the assertions, assumptions and operations that define what a given program does. Defining the logic of a program is often the first step in developing the program's source code. Therefore, the web server must also contain logic for executing the above methods. Wine does not explicitly disclose that the trigger is exclusive, receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive, enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5,

Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wine to include an the trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would

have yield predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claims 4, 27, 32 and 35, Wine, Zigmond and Bruck disclose all the limitations of Claims 1, 24, 31 and 34 respectively. Wine discloses VBI tokens at the appropriate locations in the audio-visual streams using synchronized timing information in the control file to synchronize the presentation of the accompanying content with the presentation of the audio-visual content (Page 5, paragraphs 0046, 0047, 0050). Wine disclose the at least one content restriction requires a second media content instance of the plurality of media content instances to be excluded from display for a time period or second media content that is contextually appropriate to the audio-visual stream is displayed during the current presentation of the audio-visual stream or content that does not correspond to the audio-visual stream is excluded during the display of the audio-visual stream or until the audio-visual stream changes or the excluded simultaneously with the first media content (Pages 4-5, paragraphs 0042, 0050).

Regarding Claim 5, 28, 33 and 36, Wine, Zigmond and Bruck disclose all the limitations of Claims 4, 27, 32 and 35 respectively. See rejection of Claim 4. Wine discloses wherein the time period is equal to the length of the display of the first media content instance of the plurality of media content instances or the time of exclusion equals to the time for displaying the current VBI token contextually relating to the audio visual stream because the accompanying VBI tokens would be displayed instead of the current VBI token when the context of the audio-visual stream changes (Pages 4-5,

paragraphs 0042, 0046, 0050) and wherein the particular second media content instance of the plurality of media content instances is excluded from display during the display of the first media content instance of the plurality of media content instances (Pages 4-5, paragraphs 0042, 0046, 0050). See rejection of Claim 26.

Regarding Claims 7 and 29, Wine, Zigmond and Bruck disclose all the limitations of Claims 1 and 24 respectively. Wine discloses the at least one trigger includes the at least one content restriction (Page 3, paragraph 0031, Pages 4-5, paragraphs 0042, 0046, 0047, 0050, 0051).

Regarding Claim 8, Wine, Zigmond and Bruck disclose all the limitations of Claim 1. Wine discloses the at least one trigger comprises information indicating the location of at least one media content instance needed to satisfy the at least one content restriction (Page 5, paragraphs 0050, 0051, Page 3, paragraph 0030).

Regarding Claims 9 and 30, Wine, Zigmond and Bruck disclose all the limitations of Claims 1 and 24 respectively. Wine discloses the at least one trigger comprises at least one media content instance needed to satisfy the at least one content restriction ((Page 5, paragraphs 0050, 0051, Page 3, paragraphs 0030, 0031).

Regarding Claim 18, Wine, Zigmond and Bruck disclose all the limitations of Claim 17. Wine discloses at least one content restriction excludes the insertion of at least one designated media content instance and wherein the designated media content instance is excluded from the available insertion area in the at least one transport stream or only appropriately content are inserted into the available inserting area such

that if the content is not appropriate they are excluded from display (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051).

Regarding Claim 19, Wine, Zigmond and Bruck disclose all the limitations of Claim 18. Wine discloses the at least one designated media content instance is a local commercial or the advertisements are based on the location (Page 5, paragraph 0046).

Regarding Claim 20, Wine, Zigmond and Bruck disclose all the limitations of Claim 17. Wine discloses the at least one content restriction is an exclusive content restriction requiring the exclusion of at least one designated media content instance (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051).

Regarding Claim 22, Wine, Zigmond and Bruck disclose all the limitations of Claim 21. Wine discloses the advertisement is selectable by the subscriber or according to user preferences (Page 5, paragraph 0046, Page 6, paragraph 0055).

Regarding Claim 25, Wine, Zigmond and Bruck disclose all the limitations of Claim 24. Wine discloses the least one content restriction requires a second media content instance of the plurality of media content instances to be displayed for a time period (Page 3, paragraph 0030, Page 5, paragraphs 0047, 0050).

Regarding Claim 26, Wine, Zigmond and Bruck disclose all the limitations of Claim 25. Wine discloses the time period is equal to the length of the display of the first media content instance of the plurality of media content instances or displaying accompanying content or second media content for the time it is triggered to the time new first media content is displayed (Page 3, paragraph 0030, Page 5, paragraphs 0047, 0050). Wine discloses the second media content instance of the plurality of

media content instances is displayed simultaneously with the first media content instance of the plurality of media content instances as the second media content is triggered to be displayed with the first media content or audio visual stream and the second media content is displayed with content to which it corresponds at the time it is playing (Page 3, paragraph 0030, Page 5, paragraphs 0047, 0050).

Regarding Claim 38, Wine, Zigmond and Bruck disclose<sup>7</sup> all the limitations of Claim 37. Wine discloses the at least one content restriction excludes the insertion of at least one designated media content or restricting accompanying content that is not contextually appropriate to the audio-visual stream to be excluded and also if no thematically available content is located in the ad server, it is retrieved from another source so that non-thematically appropriate content is excluded from being displayed (Page 3, paragraphs 0030-0031, Page 4, paragraphs 0034, 0038) and wherein the administrative content control module allows the insertion of the least one designated media content into the available insertion area in the transport stream (Page 3, paragraphs 0030-0031, Page 4, paragraphs 0034, 0038).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wine in view of Zigmond, Birdwell et al (US 6,108,706 and hereafter referred to as "Birdwell") and Bruck.

Regarding Claim 10, Wine discloses a method in a STS (Figure 5, 190), the method comprising the steps of: providing a plurality of media content instances to be displayed to a subscriber (Figure 5, Page 4, paragraph 0035, 0041); providing at least one trigger synchronized with a first media content instance of the plurality of media



content instances (Page 5, paragraphs 0050, 0051); the at least one trigger comprising at least one unique identifier or synchronized timing information (Page 5, paragraph 0049), enabling at least one content restriction responsive to a reception of the at least one trigger or VBI token (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051). Wine discloses enabling at least one content control module in the web server (Figure 5, 208) which comprises a database or control file (Page 5, paragraphs 0048) of a plurality of values or time stamp values for plurality of unique identifiers or synchronization timing information (Page 5, paragraphs 0047, 0050, 0051), the plurality of values being individually matched with a corresponding content restriction or restriction on displaying only appropriate content (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051). Wine teaches that the control file with values is sent to the client device for execution by the client device (Page 7, paragraph 0087, Figure 5, 210). Wine discloses that the content restriction enabling display of all the content except for particular media content of the plurality of media content (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine disclose receiving the at least one trigger at the client device (Page 5, paragraph 0045, 0047, 0048, Page 7, paragraph 0087); interpreting a value of the at least one trigger from the control file (Page 5, paragraph 0047); and enabling the control file to reference the value (Page 7, paragraph 0087) and determine at least one enabled content restriction (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051). Wine discloses the content restriction enabling display of all the content except for particular media content of the plurality of

media content instances, the particular media content instances associated with the at least one trigger (Page 4, paragraphs 0038, 0039, Page 5, paragraphs 0043-0046, 0050, 0051). Wine discloses displaying a first video stream to a subscriber in a video area of a screen display (Page 4, paragraph 0035); the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051) in an advertisement area (Figure 4, 32) simultaneously with the first video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038) and the application in the application area of the screen display (Figure 4, 32). Wine does not explicitly disclose that the trigger is exclusive, at least one content control module in the client device and the control module comprising a database with values receiving an activation of an application in an application area of the screen display; responsive to receiving the activation of the application, displaying the advertisement area, video area and the application area of the screen display. In analogous art, Zigmond discloses the trigger is exclusive which enabling an exclusive content restriction for all content except for particular media content instances or all content except competing companies are excluded from display (Column 14, lines 13-17). Birdwell discloses a content control module in the client device (Figure 2, 42, 60, 62, 64), the at least one content module comprising a database or memory of a plurality of values of unique identifiers including criteria and/or profile information (Figure 2, 42, 44 60, 62, 64, Column 5, lines 15-39, Column 6, lines 32-44, Column 7, lines 51-64). Birdwell providing at least one content

restriction responsive to reception of the at least one trigger (Column 5, lines 15-25), the content restriction enabling display of media content instances except for particular media content instance, the particular media content instances associated with the at least one trigger (Column 6, lines 32-44). In analogous art, Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wine to include an trigger is exclusive (Column 14, lines 13-17) as taught by Zigmond in order to increase advertising revenues (Column 1, lines 23-35) as disclosed by Zigmond. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include a content control module in the client device (Figure 2, 42, 60, 62, 64), the at least one content module comprising a database of a plurality of values of unique identifiers (Figure 2, 42, 44 60, 62, 64, Column 5, lines 15-39, Column 6, lines 32-44, Column 7, lines 51-64) as taught by Birdwell in order to provide clients with media content instances that relate to the users (Column 2, lines 6-17) and to provide a system which allows a client system to perform

processes for user related information if data can not be supported by the broadcast network (Column 1, lines 21-48) as disclosed by Birdwell. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying the media content instance in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 108, 118, 120, 122) as taught by Bruck in order to chat with viewers while watching a video program at the same time (Column 2, lines 15-25) as disclosed by Bruck.

Furthermore, in *KSR International Co. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wine in view of Zigmond, Birdwell and Bruck as applied to claim 10 above, and further in view of Sahota (US 2002/0010928).

Regarding Claim 11, Wine, Zigmond, Birdwell and Bruck disclose all the limitations of Claim 10. Wine discloses the client device displays a screen display comprising the application interface in the application area of the screen display of the client device (Figure 4, 32), an advertisement banner (Figure 4, 36, Page 4, paragraphs 0034, 0036, 0038) and the video stream in the video area of the screen display (Figure 4, 42, paragraphs 0034, 0036, 0038); the video stream displaying the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038). Bruck discloses displaying a first video stream to a subscriber in a video area of a screen display (Figure 5); receiving an activation of an application in an application area of the screen display (Figure 5, Column 7, lines 18-30); responsive to receiving the activation of the application (Figure 5, Column 7, lines 18-30), displaying one of the media content instances or advertisements in an advertisement area of the screen display simultaneously with the display of the first video stream in the video area of the screen display and the application in the application area of the screen display (Column 8, lines 3-28, Figure 8, Figure 9, 118, 120, 122). Wine, Zigmond, Birdwell and Birdwell are silent on the first media content instance of the plurality of media content instances being a commercial. Sahota discloses a television or TV can receive and display Internet advertisement content integrated with TV commercial (Page 3, paragraph 0036, Page 1, paragraphs 0016, 0017). Therefore, it would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the combination to include the first media content to be a commercial (Page 3, paragraph 0036, Page 1, paragraphs 0016, 0017) as taught by Sahota in order to save

production time of the broadcasters (Page 1, paragraph 0005) as disclosed by Sahota and to provide viewers with advertisements for sponsors' products in order to cover production costs of the programming.

Regarding Claim 12, Wine, Zigmond, Birdwell, Bruck and Sahota disclose all the limitations of Claim 11. Wine teaches the content restriction excludes the display of the second media content instance of the plurality of media content instances in the advertisement banner (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051).

Regarding Claim 13, Wine, Birdwell, Bruck and Sahota disclose all the limitations of Claim 12. Wine discloses wherein the second media content instance of the plurality of media content instances is associated with a competitor funding entity of the commercial or if only accompanying content can be of the same sponsor such as the Toronto Maple Leafs can be displayed if the funding entity is another entity it is contextually appropriate and will be excluded (Page 4, paragraphs 0038, 0039).

Regarding Claim 14, Wine, Zigmond, Birdwell, Bruck and Sahota disclose all the limitations of Claim 11. Wine discloses the enabled content restriction is allows the display of any of the plurality of media content instances in the advertisement banner not excluded by the exclusive content restriction (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051).

Regarding Claim 15, Wine, Zigmond, Birdwell, Bruck and Sahota disclose all the limitations of Claim 14. Wine discloses wherein at least one of the plurality of media

content instances excluded by the content restriction is media content associated with a competitor of a funding entity of the commercial or if only accompanying content can be of the same sponsor such as the Toronto Maple Leafs can be displayed if the funding entity is another entity it is contextually appropriate and will be excluded (Page 4, paragraphs 0038, 0039).

Regarding Claim 16, Wine, Zigmond, Birdwell, Bruck and Sahota disclose all the limitations of Claim 11. Wine discloses that the enabled content restriction is an inclusive/exclusive combination content restriction (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051), and wherein the inclusive/exclusive combination content restriction requires the display of a second media content instance of the plurality of media content instances in the advertisement banner if available (Pages 3-5, paragraph 0030-0034, 0038, 0042, 0046, 0050, 0051), the second media content instance of the plurality of media content instances being associated with a funding entity of the commercial (Page 4, paragraphs 0038, 0039), if the second of the media content is not available, then the inclusive/exclusive combination content restriction requires the display of a third of the plurality of media content instances in the advertisement banner, the third of the plurality of media content instances being any media content not associated with a competitor of a funding entity of the commercial (Page 4, paragraphs 0038, 0039). See rejections of Claims 13 and 15.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wine in view of Zigmond and Bruck as applied to Claim 21 in further view of Flickinger (US 2001/0032333).

Regarding Claim 23, Wine, Zigmond and Bruck disclose all the limitations of Claim 21. Wine, Zigmond and Bruck are silent on the priority event is a scene displayed in the video stream where a scene item related to a first funding entity is represented, and wherein the particular advertisement is an image of an item similar to the scene item but related to a second funding entity. Flickinger discloses the priority event is a scene displayed in the video stream where a scene item for a item such as a car in a video is related to a first funding entity or advertiser such as Ford is represented, wherein the particular advertisement is an image of an item similar to the scene item but related to a second funding entity or Chevrolet (Page 5, paragraph 0040). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include the priority event is a scene displayed in the video stream where a scene item for a item such as a car in a video is related to a first funding entity or advertiser such as Ford is represented, wherein the particular advertisement is an image of an item similar to the scene item but related to a second funding entity or Chevrolet (Page 5, paragraph 0041) as taught by Flickinger in order to allow a user to invoke an IPG during a break and see multiple advertisement based on linked sponsorship (Page 1, paragraph 0001, 0041) to enhance the effectiveness of an advertisement campaign (Page 2, paragraph 0007) as disclosed by Flickinger.

**(10) Response to Argument**



**A. Rejection of Claims 1, 4-9 and 17-38 under 103: Wine, Zigmond, and Bruck**

Appellant respectfully request that this rejection be overturned as the combination do not disclose, teach or suggest all elements of the claims at issue.

**1. Independent Claims 1, 24, 31, and 34**

The appellant argues the combination does not disclose "providing at least one exclusive trigger synchronized with a first media content instant of the plurality of media content instances (Page 10). The appellant argues that the claims 24, 31 and 34 should be overturned for at least the reason that the proposed combination does not disclose "logic configured to provide at least one trigger synchronized with a first media content instance of the plurality of media content instances" (Page 10). The appellant argues that the VBI token transmitted to the client is not the claimed trigger as the VBI tokens are transmitted via control file and the control file is not providing at least one exclusive trigger synchronized with a first media content instance (Page 11). The appellant cites paragraph 0031 of Wine and concludes that the VBI tokens are not triggers and do not synchronize (Page 11). The appellant argues that the control file is not providing at least one exclusive trigger synchronized with a first media content instance (Page 11).

In response to the arguments, the examiner respectfully disagrees. Wine discloses that VBI tokens are translated ATVEF compliant tags or triggers. Wine also discloses that if a VBI token senses a change based on a timestamp, the VBI token triggers a corresponding change in the appropriate area of the browser (Page 4,

paragraph 0035). Wine discloses that the VBI token or trigger is synchronized with a first media content instance as the synchronized timing information makes the VBI token to affect presentation of accompanying content at the appropriate time (Page 5, paragraphs 0045, 0048, 0049). Wine discloses a trigger as the translated ATVEF triggers are VBI tokens and clearly discloses affecting change based on a time.

The rejection clearly stated that Wine does not explicitly disclose a trigger is exclusive. Wine discloses the client device displays a screen display displaying one of the first media content instance of the plurality of media content instances (Page 4, paragraphs 0034, 0036, 0038) not excluded by the trigger (Page 4, paragraph 0038, Page 5, paragraph 0043-0045, 0050-0051). Zigmond discloses an exclusive trigger, enabling exclusive content restriction (Column 14, lines 13-17).

In reference to the logic argument for claims 24, 31 and 34, the Microsoft Computer Dictionary (4<sup>th</sup> edition) defines logic in programming, the assertions, assumptions and operations that define what a given program does. Defining the logic of a program is often the first step in developing the program's source code. Therefore, a system such as a web server necessarily contains logic for executing steps including providing trigger synchronized with content (Page 5, paragraphs 0050, 0051).

## **2. Independent Claim 17**

The appellant argues the combination does not disclose inserting within an available insertion in at least one transport stream, at least one exclusive trigger having at least one content restriction (Page 12). The appellant argues that although Wine in

one of the cited paragraphs 0042 discloses an audio visual stream this is not a transport stream with available insertion area (Page 12).

In response to the arguments, the appellant's specification also discloses an audiovisual stream as the transport stream (Figure 8A). The examiner respectfully directs the available insertion area within a transport stream to cited paragraph 0050. Wine disclose inserting within an available insertion in at least one transport stream, at least one exclusive trigger having at least one content restriction or inserting VBI tokens at appropriate locations in the audio visual stream using synchronizing timing information (Page 5, paragraph 0050). The broadest reasonable interpretation of available insertion area can include the appropriate locations within the audio visual stream.

### **3. Independent Claim 21**

The appellant argues that the proposed combination does not disclose "providing at least one exclusive trigger synchronized with a priority event in the video stream (Page 12). Appellant argues that Wine does not disclose priority event (Page 13). Appellant argues that Wine does not disclose the claimed trigger or synchronized with first media content instance (Page 13). The appellant makes the same arguments for the claimed trigger and synchronization in section A.1.

In response to the arguments, the appellant's specification discloses the term priority event is used to describe any occurrence generating special consideration by system or method described herein (Page 3, lines 26-28). Wine discloses a priority event or content being displayed in the video stream so that accompanying content is

appropriate to the content based on the VBI token (Page 5, paragraphs 0046, 0047, 0050, 0051, Page 4, paragraph 0035). In response to the trigger and synchronization arguments, please refer to the response in section A.1.

#### **4. Independent Claim 37**

The appellant argues the combination does not disclose "logic configured to enable at least one exclusive trigger to be synchronized with an available insertion area in the at least one transport stream" (Page 14). The appellant argues that Wine does not disclose the transport stream much less a specific type of transmission using a transport stream (Page 14).

In response to the arguments, please see response to arguments of sections A.1. and A.2. The limitations do not disclose a specific type of transmission.

#### **5. Dependent Claims 4-5, 7-9, 18-20, 22-23, 25-30, 32, 35, 36 and 38**

The appellant argues that dependent claims are allowable because independent claims are allowable.

In response to the arguments, please see response to arguments in sections A.1.-A.4.

#### **B. Rejection of Claim 10 under 35 USC 103: Wine, Zigmond, Birdwell and Bruck**

The appellant argues the combination does not disclose the at least one content control module comprising a database of plurality of values for a plurality of unique identifiers, the plurality of values being individually matched with a corresponding

content restriction (Page 15). The appellant argues that Wine allegedly teaches this feature and that synchronization timing information in the control file of Wine is not a plurality of unique identifiers as the information is relative to the beginning of an audio visual stream. Therefore, duplicate values of relative time are possible and Wine does not guarantee a plurality of unique identifiers (Page 15). Nor does Zigmond, Birdwell or Bruck disclose this feature (Page 16).

In response to the argument, synchronization timing information includes information for time and program (Page 5, paragraph 0048). Therefore, identifying a time and a particular program (i.e. 0:15 for program A) is not the same for a second program (i.e. 0:15 for program B). The values are individually matched with corresponding restriction or to displaying only appropriate content (Page 3, paragraph 0031, Page 5, paragraphs 0045-0047, 0050, 0051). The examiner would like to note that Birdwell was combined with Wine to include a content control module (Figure 2, 42, 60, 62, 64) comprising a database or memory of plurality of values for a plurality of unique identifiers such as criteria and/or profile information (Column 5, lines 15-39, Column 6, lines 32-34, Column 7, lines 51-64). The criteria can be identification of information including time, title, type of content and subject matter.

### **C. Rejection of Claims 11-16 under 35 USC 103: Wine, Zigmond, Birdwell, Bruck and Sahota**

The appellant argues Sahota does not cure the deficiency discussed above in connection with independent claim 10.

In response to the argument, please see response to arguments for section B.

**D. Rejection of Claim 23 under 35 USC 103: Wine, Zigmond, Bruck and Flickinger**

The appellant argues Flickinger does not cure the deficiency discussed above in connection with independent claim 21.

In response to the argument, please see response to arguments for sections A.1 and A.3.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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